

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**JOHN HENRY BLACKBURN,**

No. 3:16-cv-02136-AC

Plaintiff,

OPINION AND ORDER

v.

**STATE OF OREGON,**

Defendant.

**MOSMAN, J.,**

On May 24, 2017, Magistrate Judge John V. Acosta issued his Findings and Recommendation (“F&R”) [49], recommending that the State’s Motion to Dismiss [32] should be GRANTED and Mr. Blackburn’s claims should be DISMISSED with prejudice. Neither party objected to the F&R.

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendations as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal

conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny with which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon careful review, I agree with Judge Acosta's recommendations and ADOPT the F&R [49] as my own opinion. The State's Motion to Dismiss [32] is GRANTED. Mr. Blackburn's claims are DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 22nd day of June, 2017.

/s/ Michael W. Mosman  
MICHAEL W. MOSMAN  
Chief United States District Judge